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April 18, 2022

Via ECF

Hon. Leslie G. Foschio  
U.S. Magistrate Judge  
2 Niagara Square  
Buffalo, NY 14202

Re: Myles Carter v. City of Buffalo, et al.  
Case No. 21-cv-954 (WMS/LGF)

Your Honor:

The undersigned represents plaintiff in the above matter, which is an action under 42 U.S.C. § 1983 against the City of Buffalo, various police officers employed by the City of Buffalo, and various state troopers employed by the State of New York. The lawsuit seeks damages for injuries arising out of a June 1, 2020 incident, and includes allegations of false arrest, excessive force, and malicious prosecution.

I write with the consent of defendants and Michael Menard, Esq., whom the parties have selected to mediate this lawsuit, to request that the date by which the initial mediation session be held be extended from April 26, 2022 for a period of ninety days. (*See* Scheduling Order, Docket No. 18, at ¶ 5). Although the parties had scheduled the mediation for April 26, intervening events make it advisable that the initial session be adjourned.

Primarily, last month plaintiff was acquitted after trial of additional criminal charges brought against him after earlier charges had been dismissed. As a result, plaintiff anticipates moving to amend his complaint to add causes of action arising out of this additional prosecution, and possibly to name additional parties involved in that prosecution. Toward that end, our office has requested a copy of the trial transcript, but we have been advised that it likely will take several weeks for the transcript to be generated.

It is plaintiff's position that this recent development has significantly changed the complexion of this litigation, and that none of the parties currently is in a position to evaluate the case for possible settlement prior to conducting at least preliminary discovery on this new issue.

Thank you for your attention to this matter.

Very truly yours.

*Edward Sivin*

Edward Sivin

Cc: All parties via ECF and  
Michael Menard, Esq. via email